



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

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In Reply Refer to: 360:NW:A005626,
A005630, A014858A, A019304

MAY 01 2002

Mr. Carl A. Torgersen, Chief
SWP Operations Control Office
Department of Water Resources
3310 El Camino Avenue, Suite 300
Sacramento, CA 95821

Mr. Chester Bowling, Operations Manager
Central Valley Operations
Bureau of Reclamation
3310 El Camino Avenue, Suite 300
Sacramento, CA 95821

Dear Mr. Torgersen and Mr. Bowling:

COMPLIANCE WITH THE VERNALIS FLOW OBJECTIVE IN FEBRUARY AND MARCH 2002

This letter responds to your March 13, 2002, notification by the Department of Water Resources (DWR) and the Bureau of Reclamation (USBR) that the Vernalis flow objective for the month of February 2002 was not met. The Vernalis flow objective was established in the 1995 Bay-Delta Water Quality Control Plan and is applied to the USBR through State Water Resources Control Board (SWRCB) Decision 1641 (D-1641). The objective requires that in a Below Normal or a Dry year, when X2 is required to be at or west of Chipps Island, the average monthly flow shall be equal to or greater than 2,280 cubic feet per second (cfs) and the 7-day running average Vernalis flow shall be 1,824 cfs.

You state in your letter that the difficulty in meeting the Vernalis flow objective was exacerbated by several factors. Forecasted precipitation failed to appear and local accretions were less than expected. Further, there is substantial uncertainty as to Vernalis flow due to the need for frequent recalibration of the Vernalis streamflow gage. Despite these factors, it appears that the basic reason that the Vernalis flow objective was not met in February was that a conscious decision was made to not commit sufficient resources to meet the objective.

Mr. Carl A. Torgersen
Mr. Chester Bowling

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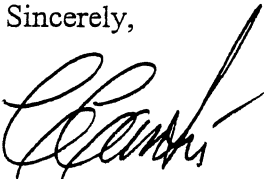
In D-1641, the SWRCB required the USBR to ensure that the water quality objectives for San Joaquin River flow at Vernalis are met (D-1641, condition 2(a), page 161). The requirement is a condition of the USBR's New Melones Project water rights (Permits 16597 and 16600). The SWRCB did not require the USBR to use water diverted under these permits to meet the Vernalis flow objective if it uses other sources of water, or other means, to meet the conditions. The decision to not meet the Vernalis flow objective this year is a clear violation of the conditions in the USBR's water right permits, and the USBR is potentially subject to enforcement action by the SWRCB.

Your letter states that water from New Melones is used for a variety of purposes, and that if additional releases had been made to meet the Vernalis flow objective, allocations for other project purposes could be reduced. The net effect of the USBR's decision, however, was to retain water in storage that would otherwise have been used for fish and wildlife purposes in the Delta.

The Vernalis flow objective is based upon the Delta Smelt Biological Opinion and is intended to provide protection to the delta smelt. I understand that delta smelt populations have been centered this year in the western Delta, with only small numbers occurring in the southern Delta. However, the objective also provides ecosystem benefits in the Delta and helps to provide favorable habitat conditions for a variety of estuarine species. Based on this information, I believe that the decision to not meet the objective probably did not have a detrimental impact on fishery resources. Nevertheless, water that was saved in storage that would otherwise have been dedicated to fishery resources should continue to be dedicated to that purpose. Accordingly, I will not recommend that the SWRCB take enforcement action at this time provided the USBR dedicate a quantity of water for fishery purposes equal to the quantity of water that would have been provided at Vernalis had the objective been met. Our calculations show that this amount was 21,368 acre-feet (af) in February, 9,140 af in March, plus an additional amount in April. The USBR should consult with the U.S. Fish and Wildlife Service to determine the timing and location of flows to make up for the shortages during February, March, and April. Please provide an accounting to me by December 1, 2002, showing how this water was utilized.

If you have questions, please contact Nick Wilcox, Chief of the Bay-Delta Unit, at (916) 341-5424.

Sincerely,



Celeste Cantú
Executive Director

cc: See next page.

Mr. Carl A. Torgersen
Mr. Chester Bowling

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cc: Mr. Curtis Creel
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